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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 622**

**[Docket No. 150302204-5204-01]**

**RIN 0648-BE93**

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;**

**Shrimp Fishery of the Gulf of Mexico; Amendment 15**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes regulations to implement Amendment 15 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP), as prepared and submitted by the Gulf of Mexico (Gulf) Fishery Management Council (Council). This rule would revise the FMP framework procedures to streamline the process for changing certain regulations affecting the shrimp fishery. Additionally, this rule proposes changes to the FMP that would revise the maximum sustainable yield (MSY), overfishing threshold, and overfished threshold definitions and values for

three species of penaeid shrimp. The intent of this proposed rule and Amendment 15 are to streamline the management process for Gulf shrimp stocks and to revise criteria for determining the overfished and overfishing status of each penaeid shrimp stock using the best available science.

**DATES:** Written comments must be received on or before [*insert date 30 days after date of publication in the* **FEDERAL REGISTER**].

**ADDRESSES:** You may submit comments on the proposed rule, identified by "NOAA-NMFS-2015-0097" by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to [www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0097](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0097), click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Susan Gerhart, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

*Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change.

All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Electronic copies of Amendment 15, which includes an environmental assessment, a Regulatory Flexibility Act analysis, and a regulatory impact review, may be obtained from the Southeast Regional Office Web Site at [http://sero.nmfs.noaa.gov/sustainable\\_fisheries/gulf\\_fisheries/shrimp/2015/Am%2015/index.html](http://sero.nmfs.noaa.gov/sustainable_fisheries/gulf_fisheries/shrimp/2015/Am%2015/index.html).

**FOR FURTHER INFORMATION CONTACT:** Susan Gerhart, telephone: 727-824-5305, or e-mail: [Susan.Gerhart@noaa.gov](mailto:Susan.Gerhart@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The shrimp fishery in the Gulf is managed under the FMP. The FMP was prepared by the Council and implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

#### **Management Measure Contained in this Proposed Rule**

This proposed rule would revise the FMP framework procedures at § 622.60(a) and (b) to allow for modification of accountability measures under the standard documentation process of the open framework procedure. Framework procedures for a FMP

allow for changes in specific management measures and parameters that can be made more efficiently than changes made through a FMP plan amendment. This framework procedure was first implemented in the Generic Annual Catch Limit (ACL) Amendment (76 FR 82044, December 29, 2011). Also, this proposed rule would remove outdated terminology from the regulations, such as "total allowable catch," and remove the phrase "transfer at sea provisions" from the list of framework procedures because this phrase was inadvertently included in the final rule for the Generic ACL Amendment (76 FR 82044, December 29, 2011).

#### **Additional Measures Contained in Amendment 15**

Amendment 15 also contains actions that are not being codified in the regulations, but guide the Council and NMFS in establishing other management measures, which are codified. Amendment 15 would revise the MSY, overfishing threshold, and the overfished threshold definitions and values for penaeid shrimp stocks (brown, white, and pink shrimp). MSY is the largest average catch that can continuously be taken from a stock under existing environmental conditions. Overfishing occurs whenever the rate of removal is too high and jeopardizes the capacity of a stock or stock complex to produce the MSY on a continuing basis. A stock or stock complex is considered overfished when its biomass has declined below the capacity of

the stock or stock complex to produce MSY on a continuing basis.

The criteria and values for MSY, overfishing threshold, and overfished threshold for penaeid shrimp were established in Amendment 13 to the FMP (71 FR 56039, September 26, 2006). Historically, Gulf penaeid shrimp stocks were assessed with a virtual population analysis (VPA), which reported output in terms of number of parents. However, the 2007 pink shrimp stock assessment VPA incorrectly determined pink shrimp were undergoing overfishing because the model could not accommodate low effort. In 2009, NMFS stock assessment analysts determined that the stock synthesis model was the best choice for modeling Gulf shrimp populations. Amendment 15 would modify these stock status determination criteria to match the biomass-based output of the stock synthesis model, which was deemed a better assessment model for shrimp by NMFS biologists and the Council's Scientific and Statistical Committee. These revisions to the penaeid shrimp stock status criteria are expected to have little to no change in the biological, physical, or ecological environments because these changes are only to the stock status reference points and will not have a direct impact on the actual harvest of penaeid shrimp.

### **Classification**

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens

Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Amendment 15, the FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination is as follows:

A description of this proposed rule, why it is being considered, and the objectives of this proposed rule are contained in the preamble and in the SUMMARY section of the preamble. The Magnuson-Stevens Act provides the basis for this proposed rule.

This proposed rule is expected to directly affect commercial fishermen holding valid or renewable Federal Gulf shrimp permits. The SBA established size criteria for all major industry sectors in the U.S. including fish harvesters and for-hire operations. A business involved in shellfish harvesting is classified as a small business if it is independently owned and

operated, is not dominant in its field of operation (including its affiliates), and its combined annual receipts are not in excess of \$5.5 million (NAICS code 114112, shellfish fishing) for all of its affiliated operations worldwide.

The Federal shrimp permit for the commercial harvest of penaeid shrimp in the Gulf exclusive economic zone has been under a moratorium since 2007 (71 FR 56039, September 26, 2006). At the start of the moratorium, 1,933 vessels qualified for and received the Federal shrimp permit. Over time, the number of permitted shrimp vessels has declined, and in 2013 there were 1,546 such permitted vessels.

From 2006 through 2012, an average of 4,757 vessels fished for shrimp in the Gulf, of which 27 percent were federally permitted vessels and the rest, non-federally permitted vessels that fished only in state waters. Despite the fewer number of vessels, federally permitted vessels accounted for an average of 67 percent of total shrimp landings and 77 percent of total ex-vessel revenues. A federally permitted vessel in the Gulf shrimp fishery, on average, generated revenues from commercial fishing of approximately \$254,000 (2012 dollars) annually.

Based on the revenue figures above, all vessels expected to be directly affected by this proposed rule are determined for the purpose of this analysis to be small business entities.

The modifications to the MSY, overfishing threshold, and overfished threshold definitions and values for penaeid shrimp in Amendment 15 would make these parameters consistent with the model currently used in the stock assessment for penaeid shrimp species. Because modifications of these parameters would not affect the harvest of shrimp or restrict the operations of shrimp vessels, no direct economic effects would ensue from this action within the amendment.

The proposed regulatory change to allow for modification of accountability measures under the standard documentation process of the open framework procedure would streamline the process for changing certain regulations affecting the shrimp fishery. This action would improve the administrative environment of developing regulations for the shrimp fishery, but would have no direct economic effects on the operations of affected shrimp vessels. This rule would also remove outdated terminology from the regulations, such as "total allowable catch," and remove the phrase "transfer at sea provisions" from the list of framework procedures to correct an inadvertent error. Both these change would have no direct economic effects on the operations of affected shrimp vessels. Therefore, it is expected that the measures contained in this proposed rule would have no effects on the profits of any affected shrimp vessels.



No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting, record-keeping, or other compliance requirements are introduced by this proposed rule. Accordingly, this rule does not implicate the Paperwork Reduction Act.

The information provided above supports a determination that this rule, if implemented, would not have a significant economic impact on a substantial number of small entities. Because of this determination, an initial regulatory flexibility analysis is not required and none has been prepared.

**List of Subjects in 50 CFR Part 622**

Fisheries, Fishing, Gulf of Mexico, Shrimp.

Dated: August 19, 2015

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Samuel D. Rauch III,  
Deputy Assistant Administrator for Regulatory Programs,  
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

**PART 622--FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC**

1. The authority citation for part 622 continues to read as follows:

**Authority:** 16 U.S.C. 1801 *et seq.*

2. In § 622.60, revise paragraphs (a) and (b) to read as follows:

**§ 622.60 Adjustment of management measures.**

\* \* \* \* \*

(a) *Gulf penaeid shrimp*. For a species or species group: reporting and monitoring requirements, permitting requirements, size limits, vessel trip limits, closed seasons or areas and reopenings, quotas (including a quota of zero), MSY (or proxy), OY, management parameters such as overfished and overfishing definitions, gear restrictions (ranging from regulation to complete prohibition), gear markings and identification, vessel markings and identification, allowable biological catch (ABC) and ABC control rules, rebuilding plans, restrictions relative to conditions of harvested shrimp (maintaining shrimp in whole condition, use as bait), target effort and fishing mortality reduction levels, bycatch reduction criteria, BRD certification and decertification criteria, BRD testing protocol and certified BRD specifications.

(b) Gulf royal red shrimp. Reporting and monitoring requirements, permitting requirements, size limits, vessel trip limits, closed seasons or areas and reopenings, annual catch limits (ACLs), annual catch targets (ACTs), quotas (including a quota of zero), accountability measures (AMs), MSY (or proxy), OY, management parameters such as overfished and overfishing definitions, gear restrictions (ranging from regulation to complete prohibition), gear markings and identification, vessel markings and identification, ABC and ABC control rules, rebuilding plans, and restrictions relative to conditions of harvested shrimp (maintaining shrimp in whole condition, use as bait).

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